

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JENNY R. ANDERSON,
Plaintiff,

v.

**COMMISSIONER, SOCIAL SECURITY
ADMINISTRATION,**
Defendant.

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**CIVIL ACTION No. 6:15-cv-441-
RC-JDL**

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Jenny R. Anderson initiated this civil action pursuant to Social Security Act, Section 205(g) for judicial review of the Commissioner's denial of Plaintiff's application for Social Security benefits. The case was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the decision of the Commissioner should be affirmed and the action dismissed with prejudice.

The Report and Recommendation of the Magistrate Judge, which contains his findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. Plaintiff has filed an objection to the Report and Recommendation (Doc. No. 16). Specifically, Plaintiff objects on the basis that the Magistrate Judge failed to find that the ALJ incorrectly applied the applicable legal standard by failing to determine whether, despite any evidence of substance abuse, Plaintiff is still disabled. *Id.* at 1. Plaintiff appears to take issue with the ALJ's accordence of little weight to the hearing testimony of Plaintiff's manager at the Andrews Center related to Plaintiff's functioning if she stopped using alcohol. *Id.* at 3. However, Plaintiff does not elaborate why the ALJ was incorrect in affording this testimony little weight. Moreover, this argument undermines Plaintiff's very contention that the ALJ failed to consider

whether Plaintiff is still disabled absent substance abuse. The record reflects that the Magistrate Judge also considered this argument by Plaintiff and found it without merit because “[t]he ALJ’s finding that if Plaintiff stopped the substance use, she could ‘understand, remember, and carry out only simple job instructions and work-related tasks’ (see Tr. at 19) specifically recognizes and accommodates Plaintiff’s moderate limitation in concentration, persistence, or pace.” (Doc. No. 15, at 12–13.) Plaintiff’s objection appears to be a general attack on the placement and consideration of Plaintiff’s alleged substance abuse by the Magistrate Judge. However, the record reflects that the Magistrate Judge considered Plaintiff’s substance abuse and whether the ALJ applied correct legal standards in similarly considering Plaintiff’s substance abuse. (Doc. No. 15, at 11–13.) Accordingly, the Court finds Plaintiff’s objection to be without merit.

Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly **ORDERED** that the decision of the Commissioner is **AFFIRMED** and the complaint is hereby **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that any motion not previously ruled on is **DENIED**.

So Ordered and Signed

Sep 2, 2016



Ron Clark, United States District Judge